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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,351	08/09/2005	Stefan Brosig	101215-178	6319
27387 7590 02/25/2008 NORRIS, MCLAUGHLIN & MARCUS, P.A. 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			EXAMINER FLEMING, FAYE M	
			ART UNIT 3616	PAPER NUMBER
			MAIL DATE 02/25/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,351

Applicant(s)

BROSIG ET AL.

Examiner

Faye M. Fleming

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-15 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 1-15 are objected to because of the following informalities: the phrase "characterized in that" should be changed to the *improving comprising or comprising* for clarity. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 7-9, 11 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanazawa (JP1163143).

Kanazawa discloses a method for detecting the attention level of a vehicle operator, wherein a steering performance of the vehicle operator is monitored; comprising a phase relationship between a change of a steering angle 3 of at least one steerable wheel 9 of the vehicle and a change of the steering wheel is evaluated. The phase relationship is evaluated during time intervals when steering motions of the vehicle are not caused by an intentional steering action of the vehicle operator. The phase relationship is evaluated within a time where the change of the steering wheel angle (α) follows a change of the steering angle. The length of the time interval is evaluated. The length of the time interval and/or the slope is compared with at least one predefinable limit value. At least one action is initiated when the at least one limit value is reached within a predefinable deviation, when the at least one limit value is exceeded and/or

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when the at least one limit value is exceeded with a frequency greater than a predefined frequency. An alarm is generated to alarm the vehicle operator. Determining the steering angle and the steering wheel, an angular position and/or a rotation speed of the rotor of a servo motor 6 of the electric steering assist and an angular position of a steering column are evaluated. A steering torque of an electric steering assist is evaluated for determining the phase difference.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9, 11, 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seko, et al. (4,463,347) in view of Kanazawa (JP1163143).

Seko discloses a method for detecting the attention level of a vehicle operator, wherein a steering performance of the vehicle operator is monitored by the change of a steering angle 1a of at least one steering wheel of the vehicle. The phase relationship is evaluated during time intervals when steering motions of the vehicle are not caused by an intentional steering action of the vehicle operator (see col. 3, line 43 -col. 4, line 3). The phase relationship is evaluated within a time interval where the change of the steering wheel angle 1a follows a change of the steering angle. The length of the time interval is evaluated. A slope of the steering wheel angle 1a during the time interval is evaluated, see figure 2. The slope of the steering wheel angle 1a is compared to a slope of the steering angle. The length of the time interval and/or the slope is compared with at least one predefinable limit value. A frequency with which the at least one

limit value is exceeded during a predefinable time interval is monitored. At least one action is initiated when the at least one limit value is reached within a predefinable deviation, when the at least one limit value is exceeded and/or when the at least one limit value is exceeded with a frequency greater than a predefined frequency. Seko teaches a haptic message 10. Seko teaches a device for detecting the attention level of a vehicle operator with at least one sensor device 1 detecting the steering performance of the vehicle and with a signal measurement and evaluation unit 2 capable of generating a signal 1a corresponding to the attention level. Stepped actions are initiated depending on a detected attention level. Seko teaches the claimed invention except for determining the steering angle of one steerable wheel. Kanazawa teaches an attention judging device for a vehicle that determines the steering angle of one steerable wheel. Based on the teachings of Kanazawa, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Seko to include determining the steering angle to provide additional information about the vehicle to ensure an occupant's safety.

Allowable Subject Matter

6. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims 1-9, 11, 12 and 15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye M. Fleming whose telephone number is (571) 272-6672. The examiner can normally be reached on M-F (9:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Faye M. Fleming/
Primary Examiner, Art Unit 3616